

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13084, of Gilbert Oken, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the lot area and lot width requirements (Sub-section 3306.1) for a proposed subdivision to erect three row dwellings in an R-3 District at the premises 5427-29-31 MacArthur Boulevard, N.W. (Square 1440, Lot 857).

HEARING DATE: December 12, 1979

DECISION DATE: January 9, 1980

FINDINGS OF FACT:

1. The subject property is located in an R-3 District on the northeast side of MacArthur Blvd., southwest of its intersection with Cathedral Avenue, N.W.

2. The subject property is fifty feet wide and 97.5 feet deep. It contains 4,875 square feet of land area.

3. The subject property is currently vacant. It has never been improved. The site is generally level for most of its area. There is a steep rise of approximately twelve feet at the rear of the site and there is also a steep rise on the southwest side of the lot.

4. The property is abutted on the northwest side by a High's Dairy Store located in a C-1 District. The building actually abuts the lot line of the subject site. To the southwest, there are single family dwellings located in the R-1-B District. The immediately abutting site contains a single family dwelling known as 5425 MacArthur Blvd., N.W. That dwelling sits at the top of the rise cited in Finding of Fact No. 3, and overlooks the subject property. To the northeast, there is a church which fronts on Cathedral Avenue. The church also is at a higher elevation than the subject property.

5. By Order No. 222, dated June 8, 1978, the Zoning Commission rezoned the subject property from R-1-B to R-3. The Commission found that construction of one single family detached dwelling would not be appropriate on this site. The Commission further found that development of the site with rowhouses would serve to provide a transition between the existing commercial uses and the existing residential neighborhood.

6. The applicant proposes to subdivide the lot and build three rowhouses across the full width of the lot. The center lot would be 16.33 feet in width and the two outer lots would be 16.83 feet in width. The R-3 District requires a minimum lot width of twenty feet. The applicant therefore requires lot width variances of 3.17, 3.67 and 3.17 feet for the three lots.

7. The area of the center lot is proposed to be 1592.18 square feet, and the area of each side lot is 1640.93 square feet. The R-3 District requires a minimum lot area for rowhouses of 2,000 square feet. The applicant therefore requires lot area variances of 359.09, 407.82 and 359.07 square feet.

8. The proposed row dwellings are three stories in height. The first floor would contain a one car garage, entry foyer, a recreation room and powder room. The second floor contains a living room, dining room, kitchen and powder room. The third floor contains three bedrooms and two bathrooms. The ceiling of the middle bedroom projects approximately three feet above the level of the main roof, in order to provide natural light and ventilation to that room.

9. There is proposed to be a solar collector located in front of the projection of the bedroom. The solar collector structure is set back approximately fourteen feet from the main front of the building. The collector is approximately ten feet in height above the level of the main roof.

10. The applicant proposes to use the roofs of the buildings for recreational purposes, and is enclosing them with a fence. Access to the roof is also necessary to allow for maintenance of the solar collectors. In order to obtain access to the whole roof, the applicant proposes to set the solar collectors and the bedroom projection back from one side of the houses by 3.5 feet. This technically creates an open court at the level of the main roof of each building. Sub-section 3506.1 requires that the width of an open court must be a minimum of six feet. A variance of 2.5 feet is thus required for each dwelling.

11. The site has no access from an alley at the rear, thus necessitating the location of the required parking spaces within the buildings. This condition reduces the available living area in the buildings.

12. Each unit would have a patio at the rear on the ground level, and a balcony extending to the rear from the second floor.

13. The property could be developed as a matter-of-right with two rowhouse structures, each twenty-five feet wide. No variances would be required for this type of development.

14. Witnesses for the applicant testified that the unusual conditions of the site precluded the development of the site for only two houses. The steep grades at the rear and southeast side of the site requires the construction of extensive retaining walls. These retaining walls add significantly to the cost of developing the property. Building as a matter-of-right would spread the added costs over two houses, which makes it unfeasible to develop. Granting of the requested variances allowsthe cost to be spread over three units, lessening the per unit cost to a marketable level. The Board agrees.

15. Witnesses for the applicant also testified that widening of the proposed roof setback would render the middle bedroom too small to be practicable. Elimination of the setback by building the bedroom projections out to the edge of each unit would preclude the need for variance relief, but would make service access to the solar collector panels located on the rear roof face unnecessarily inconvenient.

16. The proposed roof configurations will not adversely affect the light and air of surrounding properties.

17. The Advisory Neighborhood Commission - 3D filed no report in this case.

18. There was no opposition to this application.

CONSLUSIONS OF LAW AND OPINION:

The Board concludes that the requested variances are area variances, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates a practical difficulty for the owner. The Board concludes that the topographic conditions of the lot make it impractical to develop only two units on the site, as permitted as a matter-of-right. The Board therefore concludes that the applicant has met all of the requirements to be entitled to lot area and lot width variances under Paragraph 8207.11.

The Board further concludes that widening of the roof level setback to conform to minimum court width requirements is not practical in that it would diminish the size of the middle bedroom so much as to be unusable. The Board concludes that elimination of the setback altogether is also not practical in that it would unduly restrict access to the solar collector panels for servicing. The Board therefore concludes that the open court variance is reasonable.

The Board concludes that the size and type of development proposed by the applicant is consistent with the existing character of the surrounding area. Additionally, the Board concludes that the proposed three unit development will be in harmony with the general purpose and intent of the Zoning Regulations and will not adversely affect the use of the neighboring property in accordance with the Zoning Regulations and Maps. It is therefore ORDERED that the Application is GRANTED.

VOTE: 4-1 (Walter B. Lewis, William F. McIntosh, Connie Fortune and Charles R. Norris to GRANT; Leonard L. McCants OPPOSED).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 17 MAR 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.